IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5634 OF 2005

1. Bhagwan Trambak Ahirrao
2. Sau. Kasubai Bhagvan Ahirrao
3. Somanth Bhagvan Ahirrao
4. Ravindra Bhagvan Ahirrao
5. Balaji Bhagvan Ahirrao ...Applicants

Vs.

The State of Maharashtra ...Respondent

Shri. M. S. Karnik for the Applicants.
Shri. K. V. Saste, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 19, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicants and the learned A.P.P. for the State.

2. The learned Advocate for the Applicant submitted that there is no evidence against the Applicant in so far as the offence under section 302 of the Indian Penal Code is concerned. He submitted that even according to the first informant who is the father of the deceased, the allegation regarding demand of dowry is only against the Applicant Nos.1 and 3 (father-in-law and the husband of the deceased). He submitted that no case is made out for continuing the custody of the Applicants after the chargesheet is filed. The learned A.P.P. has invited my attention to the relevant material and in particular the Post Mortem Notes.

3. I have considered the submissions. The Post Mortem Notes show that the death is due to throttling and 100% burn injuries on the person of the deceased are post mortem. The death has been caused in the matrimonial home where admittedly all the Applicants were residing together. Colunm No.17 of the Post Mortem Notes shows that neck is dicected at the level of trachea and there is haemorrhage on the right side of the trachea. The Post Mortem Notes prima facie show that the cause of death is due to throttling and thereafter the dead body of the deceased has been burnt. Therefore, section 201 of the Indian Penal Code has been also applied. Considering the nature of crime and material on record, no case is made out for enlarging the Applicants save and except the Applicant No.2. The Applicant No.2 is a married woman of age of fifty years and after completion of investigation, she cannot be detained in custody. Considering the facts and circumstances of the case, the trial deserves to be expediated.

4. Hence, I pass the following order:

: O R D E R :

i) The Application of the Applicant No.1 Bhagwan Trambak Ahirrao, Applicant No.3 Somnath Bhagwan Ahirrao, Applicant No.4 Ravindra Bhagwan Ahirrao and

Applicant No.5 Balaji Bhagwan Ahirrao is rejected.

ii) The Applicant No.2 Sau.Kasubai Bhagwan Ahirrao shall be enlarged on bail in connection with **C.R.No.45 of 2005 registered with Taluka Police Station, Malegaon, District Nashik,** subject to furnishing a personal bond of **Rs.10,000/-** with one or two sureties in the like amount.

iii) The Bail is granted subject to condition that the Applicant No.2 shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) The Applicant No.2 shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) If the case is not committed to the Sessions Court, the same shall be done within the period of

three weeks from today.

vii) Trial is expediated and the same shall be concluded by treating it as High Court expediated case.

viii) Application is disposed of in above terms.

ix) The parties to act upon an authenticated copy of this order.

JUDGE